

Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: June 6-7, 2007

Reference No.: 2.4a.(2)
Action Item

From: CINDY McKIM
Chief Financial Officer

Prepared by: Bimla G. Rhinehart
Chief
Division of Right of Way and
Land Surveys

Subject: **RESOLUTIONS OF NECESSITY - APPEARANCE**

RECOMMENDATION:

The California Department of Transportation (Department) recommends the California Transportation Commission (Commission) adopt Resolution of Necessity C-19661 summarized on the following page.

ISSUE:

Prior to initiating Eminent Domain proceedings to acquire needed right of way for a programmed project, the Commission must first adopt a Resolution of Necessity (RON), stipulating specific findings identified under Section 1245.230 of the Code of Civil Procedure, which are:

1. The public interest and necessity require the project.
2. The project is planned and located in a manner that will be most compatible with the greatest public good with the least private injury.
3. This property is necessary for the proposed project.
4. An offer to acquire the property in compliance with Government Code Section 7267.2 has been made to the owner of record.

In this case, the property owner is contesting the RON and has requested an appearance before the Commission to discuss the outstanding issue, which is primarily economic in nature.

BACKGROUND:

Discussions have taken place with the owner, who has been offered the full amount of the Department's appraisal and, where applicable, advised of any relocation assistance benefits to which the owner may subsequently be entitled. Adoption of the resolution will not interrupt the Department's efforts to secure equitable settlement. In accordance with statutory requirements, the owner has been advised that the Department is requesting the resolution at this time. Adoption will assist the Department in the continuation of the orderly sequence of events required to meet construction schedules.

C-19661 - Donald Lee Olmsted, et al.

10-Sta-99-PM 12.1 - Parcel 14748-1, -2 - EA 2A7709.

Right of Way Certification Date: 05/01/07; Ready To List Date: 05/01/07. Conventional highway - reconstruct interchange. Authorizes condemnation of land in fee for a State highway, a temporary easement for highway construction, together with all of those certain improvements which straddle the right of way line with an easement to enter the remaining ownership to remove such improvements. Located in the city of Ceres at 1812 E. Whitmore Avenue. APN 053-018-005.

Attachments

FROM :

FAX NO. :

May. 16 2007 10:36AM P3

May 16 2007 10:11AM THT

209.599.5008

p. 2

THOMAS H. TERPSTRA

ATTORNEY AT LAW

A PROFESSIONAL CORPORATION

578 N. WILMA AVENUE

SUITE A

RIPON, CALIFORNIA 95366

TELEPHONE 209-599-5003

FACSIMILE 209-599-5008

terpstra@thtlaw.com

May 15, 2007

John Barna, Executive Director
California Transportation Commission
P.O. Box 942873, Mail Station 52
Sacramento, CA 94273-0001

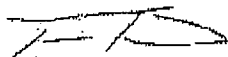
Re: Parcel 14748-1.-2/Donald Lee Olmsted, et al. / our file #2728-001

Dear Mr. Barna and Commission Members:

With regard to my earlier letter of May 4, 2007, requesting to speak at the Commission's meeting of June 6 and 7, 2007, please be advised that my client would be willing to have his concerns read into the record at that meeting, as opposed to personally testifying. The main concern, outlined in my earlier letter, is that the Department has not proposed to adequately compensate my client for loss of property and rental income, as the Project will cause significant harm to Mr. Olmsted's business and his existing tenants. To that extent, our concerns are primarily economic in nature.

We will continue to monitor this matter, and would appreciate a copy of any documents to be referenced or utilized by the Commission in its deliberations on this matter.

Very Truly Yours,



THOMAS H. TERPSTRA
Attorney at Law

Cc Donald Olmsted
Merlyn Riggs

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578 N. WILMA AVENUE

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RIPON, CALIFORNIA 95366

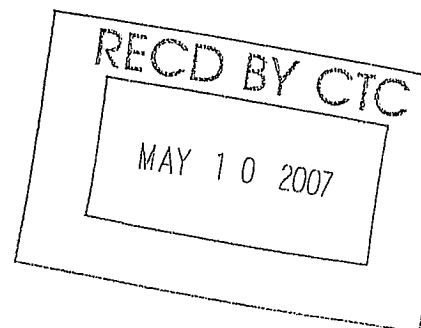
tterpstra@thtlaw.com

TELEPHONE 209-599-5003

FACSIMILE 209-599-5008

May 4, 2007

John Barna, Executive Director
California Transportation Commission
P.O. Box 942873, Mail Station 52
Sacramento, CA 94273-0001



Re: Parcel 14748-1,-2/Donald Lee Olmsted, et al./ our file #2728-001

Dear Mr. Barna and Commission Members:

This office represents Donald Lee Olmsted and Merlyn Riggs, owners of the above-described parcel. We recently received, by certified mail, a copy of the CTC's Notice of Intent to Adopt Resolution of Necessity in connection with the Department of Transportation's Whitmore Avenue Interchange project. My client has received other documentation on this project, including the District's offer and a summary of the appraisal from the Department.

This is to advise that on behalf of Mr. Olmsted, I wish to appear before the Commission on June 6 and 7, 2007, and raise questions and concerns as to Subfinding B of California Code of Civil Procedure Section 1240.030. Specifically, we are concerned that the project, as proposed, will significantly impair the market value, as well as the existing and future use of my client's property. We therefore question whether the project as proposed is compatible with the greatest public good and the least private injury.

We would request the right to speak and present evidence on these points at the Commission's meeting. Please advise as to the placement of this item on either the 6th or the 7th, if possible. Also, please provide a copy of the draft Resolution of Necessity and supporting documentation to the undersigned as soon as it is available. Thank you for your cooperation in this matter.

Very Truly Yours,

THOMAS H. TERPSTRA

Attorney at Law

Cc: Clients

DEPARTMENT OF TRANSPORTATION

Division of Right of Way

P.O. BOX 2048, STOCKTON, CA 95201

(1976 E. CHARTER WAY/1976 E. DR. MARTIN

LUTHER KING JR. BLVD. 95205)

TTY: California Relay Service (800) 735-2929

PHONE (209) 948-7888

FAX (209) 948-7641

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May 16, 2007

10-STA-99-18.9/19.7

Parcel No. 14748

EA 2A7709

Mr. Thomas H. Terpstra
Attorney at Law
A Professional Corporation
578 N. Wilma Ave, Suite A
Ripon, CA 95366

Dear Mr. Terpstra

SUBJECT: Donald Lee Olmstead / File #2728-001

The District 10 Right of Way Office is writing in response to your letter sent to the California Transportation Commission dated May 15, 2007. In your letter, you expressed concerns, on behalf of your clients Mr. Donald Olmstead and Ms. Merlyn Riggs, regarding the State of California, Department of Transportation's (Department) property acquisition from the property they own located at 1812 East Whitmore Avenue in Ceres, CA.

The Department recognizes the impact to the property owned by Mr. Olmstead and Ms. Riggs and as such, will continue to work with you and your clients in an attempt to resolve the appropriate amount of compensation due them as a result of the property acquisition.

Should you have any questions or need additional information on the project or Olmstead parcel specifically, please contact this office at (209) 948-7888.

Sincerely yours,

A handwritten signature in cursive script that reads 'Sharon A. Parsons'.

SHARON A. PARSONS

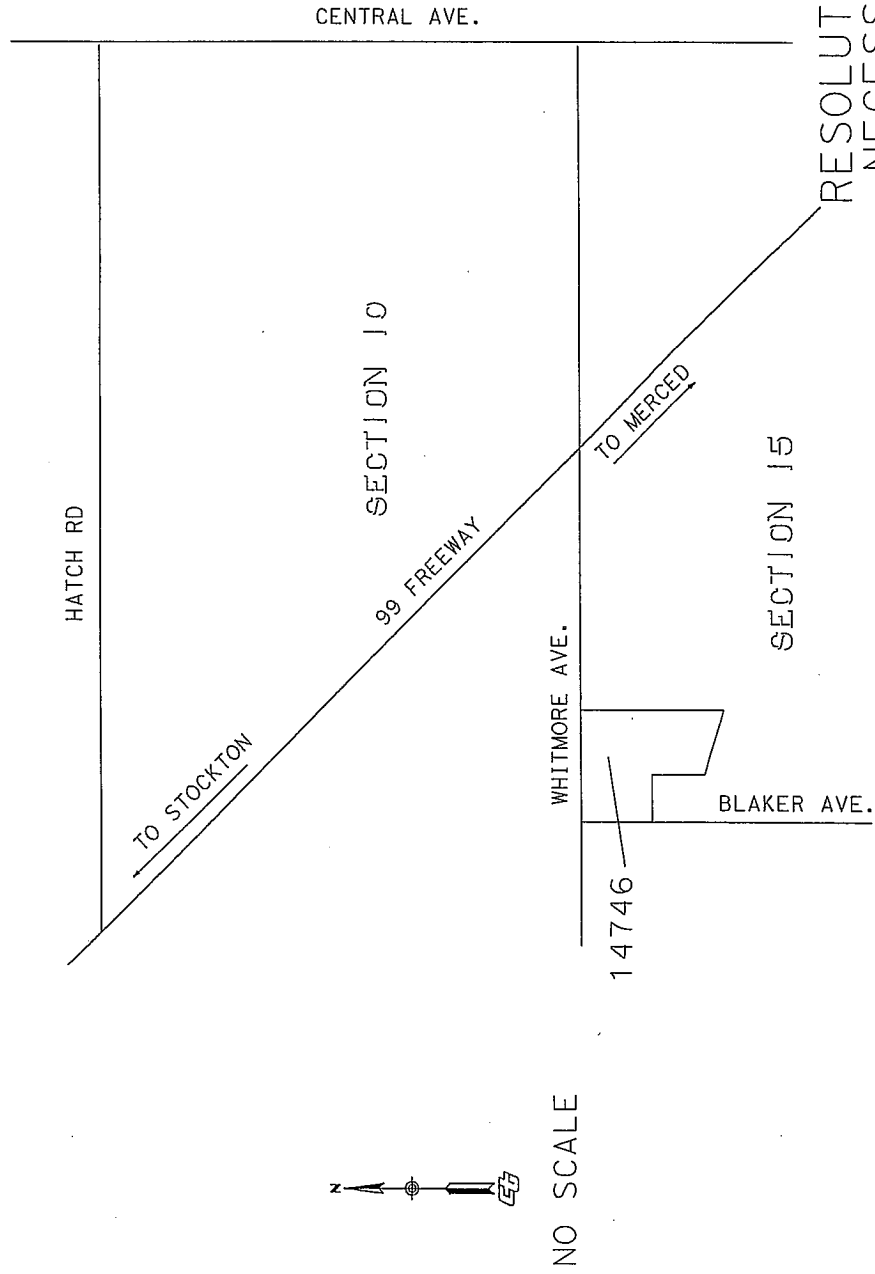
Senior Right of Way Agent

Acquisition Branch Chief-District 10

T. 4 S. R. 9 E. M.D.B.M.
STANISLAUS COUNTY CITY OF CERES



EXHIBIT B

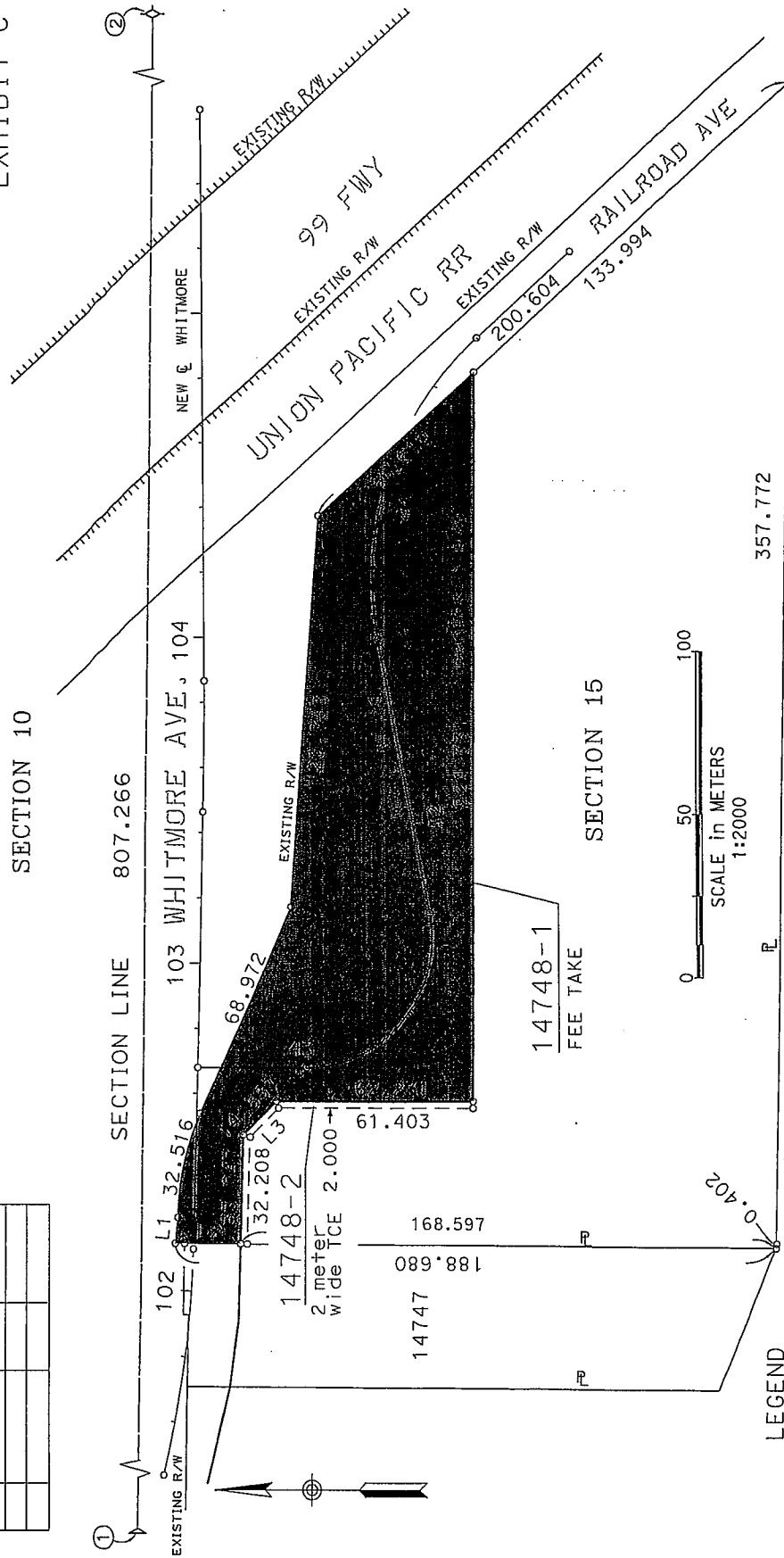







AREA MAP

10 STA 99 PM 12.1 KP 19.5

T, 4 S. R. 9 E. M.D.B.M.
STANISLAUS COUNTY
CITY OF CERES
SECTION 10

LINE DISTANCE		LINE DISTANCE
L1	7.929	
L2	20.083	
L3	12.908	



 FOUND SECTION CORNER AS DESCRIBED
 FOUND QUARTER CORNER AS DESCRIBED
 CALCULATED POINT
 PROPOSED NEW R/W
 EXISTING R/W 99 FWY

Coordinates, bearings and distances shown are based on the California Coordinate System of 1983 zone 3. DISTANCES ARE IN METERS unless otherwise noted. Multiply distances shown by 1.00006680 to obtain ground level distances. To convert meters to the U.S. Survey foot multiply distances by .3937/1200.

FOUND POINT DESCRIPTIONS	
1	QUARTER SEC COR. 10/15 FD 7/4" IP IN MON WELL
2	SE COR SECT 10 FD 2" IP IN MON WELL

RESOLUTION OF NECESSITY MAP

10 STA 99 PM 12.1 KP 19.5